

## § 415.33

## 18 CFR Ch. III (4-1-03 Edition)

### § 415.33 Uses by special permit.

(a) Within the floodway the following uses by special permit may be authorized under the standards hereinafter provided:

(1) Uses or structures accessory to open space use.

(2) Circuses, carnivals and similar transient enterprises.

(3) Drive-in theaters, signs and billboards.

(4) Extraction of sand, gravel and other non-toxic materials.

(5) Marinas, boat liveries, docks, piers, wharves and water control structures.

(6) Fish hatcheries.

(7) Railroads, streets, bridges, utility transmission lines and pipelines.

(b) Within the flood fringe the following uses by special permit may be authorized under standards hereinafter provided:

(1) *Non-residential uses generally.* Structures other than residence shall ordinarily be elevated as herein provided but may in special circumstances be otherwise flood proofed to a point above the Flood Protection Elevation.

(2) *Commercial uses.* Commercial structures shall be elevated so that no first floor or basement floor is below the Flood Protection Elevation; or such structures may be flood proofed to the Flood Protection Elevation. Accessory land uses, such as yards, railroad tracks and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted in the absence of a flood warning system, if the area is inundated to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the Regulatory Flood.

(3) *Manufacturing and industrial uses.* Manufacturing and industrial buildings, structures, and appurtenant works shall be elevated so that no first floor or basement floor is below the Flood Protection Elevation; or such structures may be flood proofed to the Flood Protection Elevation. Measures shall be taken to minimize flood water interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses as yards and parking

lots may have lesser protection subject to the flood warning requirements set out in 2 above.

(4) *Utilities, railroad tracks, streets and bridges.* Public utility facilities, roads, railroad tracks and bridges shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans to the extent applicable. Protection to the Flood Protection Elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.

(5) *Water supply and waste treatment.* No new construction, addition or modification of a water supply or waste treatment facility shall be permitted unless the lowest operating floor of such facility is above the Flood Protection Elevation, or the facility is flood proofed according to plans approved by the Commission, nor unless emergency plans and procedures for action to be taken in the event of flooding are prepared. Plans shall be filed with the Delaware River Basin Commission and the concerned state or states. The emergency plans and procedures shall provide for measures to prevent introduction of any pollutant or toxic material into the flood water or the introduction of flood waters into potable supplies.

### ADMINISTRATION

### § 415.40 Administrative agency.

(a) Class I projects as defined by § 415.20 of this part shall be subject to review and approval by the Commission.

(b) Class II projects as defined by § 415.21 shall be subject to review and approval by a duly empowered state or local agency; and if there be no such state or local agency at any time on and after January 1, 1978, and only during such time, the Commission may review any such project which has been